

MEMO ENDORSED

November 14, 2013

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**BY EMAIL (sullivanSDNYchambers@nysd.uscourts.gov)**

Hon. Richard J. Sullivan  
United States District Judge  
Southern District of New York  
United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312

Re: *Roche Diagnostics et al. v. Enzo Biochem, et al.*, No. 04 CV 4046 (RJS) (S.D.N.Y.)

Dear Judge Sullivan:


This letter is submitted jointly on behalf of all parties in the above-referenced matter — Enzo Biochem, Inc., Enzo Life Sciences, Inc., Roche Diagnostics GmbH, and Roche Molecular Systems, Inc. — to respectfully request an extension of the deadlines to file the joint claim construction prehearing statement, opening claim construction briefs, and responsive claim construction briefs, which are currently due to be submitted to the Court on November 15, 2013, December 20, 2013, and January 24, 2013. *See* Dkt. 128.

Pursuant to the Court's November 14, 2013 Order, Dkt No. 130, the parties intend to jointly present their dispute over the scope of further discovery relating to Enzo's breach of contract claims and, in particular, discovery relating to the Taqman probes. Both parties agree that the resolution of their dispute on this issue could affect the need for further proceedings on the '830 patent, including claim construction, expert discovery, and/or trial proceedings.

Accordingly, the parties jointly request an extension of the deadlines for the prehearing statement and claim construction briefs, pending the resolution of their dispute. This is the parties' second request for such an extension.

Given that fact discovery for the instant claims closed nearly a month ago, the Court sees no basis for permitting further discovery. Therefore, no extension of the claim construction briefing schedule is justified at this time. Accordingly, the request is DENIED.

SO ORDERED  
Dated:

  
RICHARD J. SULLIVAN  
U.S.D.J.  
11/19/13

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Respectfully submitted,

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